

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

RICHARD A. PESTELL,)
)
Plaintiff,)
)
v.) **No. 3:06-0682**
) **Judge Echols**
LIFE INSURANCE COMPANY OF)
NORTH AMERICA, et al.,)
)
Defendants.)

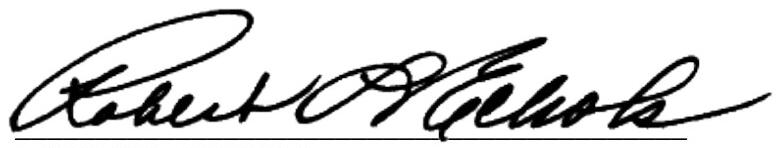
ORDER

In accordance with the Memorandum entered contemporaneously herewith, the Court rules as follows:

- (1) Plaintiff Richard A. Pestell's Motion For Partial Summary Judgment (Docket Entry No. 85) on Defendant Life Insurance Company of North America's counterclaim for specific performance of the overpayment reimbursement provision of the ERISA plan is hereby DENIED;
- (2) Defendant's Motion For Summary Judgment (Docket Entry No. 91) on its counterclaim is hereby GRANTED;
- (3) Defendant Life Insurance Company of North America is entitled to a mandatory injunction requiring specific performance of the overpayment reimbursement provision of the ERISA plan by Plaintiff Richard A. Pestell;
- (4) Judgment is hereby entered on the counterclaim for restitution in favor of Defendant Life Insurance Company of North America against Plaintiff Richard A. Pestell in the amount of \$14,883.00; and

(5) Entry of this Order on the docket shall constitute entry of final Judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE